

Charges for shipping are gross receipts subject to ROT when they are part of the selling price of the tangible personal property being sold. See, 86 Ill. Adm. Code 130.415. (This is a GIL.)

January 7, 1999

Dear Ms. Xxxxx:

This letter is in response to your letter that we received on November 24, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

In order to update our files, we are requesting confirmation on taxable/nontaxable services. The service is always stated separately on the invoice.

TAXABLE (circle one):

Freight	yes	no
Installation	yes	no
Labor	yes	no

Please accept our thanks for all your help in keeping our files current.

We are providing the following narrative in order to more fully explain the items about which you have made inquiry. In computing Retailers' Occupation Tax (sales tax) liability in Illinois, labor is generally subject to sales tax as it is considered a cost of doing business that is not deductible. The fact that labor charges may be separately stated does not create a different result. See, 86 Ill. Adm. Code 130.410, enclosed.

Whether freight charges may be deducted by retailers in calculating Retailers' Occupation Tax liability depends not upon the separate billing of such freight or delivery charges but upon whether the charges are included in the selling prices of the property or are contracted for separately by purchasers and retailers. The best evidence that delivery charges were agreed to separately and apart from selling prices, are separate and distinct contracts for freight or shipping. Alternatively, documentation in the records of sellers that purchasers had options of taking delivery of the property at sellers' locations, for the agreed purchase prices, or having delivery made by sellers for the agreed purchase prices plus ascertainable delivery charges, may suffice.

Mail order delivery charges are deemed to be agreed upon separately from the selling price of the tangible personal property being sold so long as the mail order form requires a separate charge for delivery and so long as the charges designated as freight or delivery or shipping and handling are actually reflective of the costs of such shipping, transportation or delivery. To the extent that such charges exceed the actual costs of freight, shipping or delivery, the excess charges are subject to tax. See section 130.415(d).

In addition, where the seller engages in the business of selling tangible personal property at retail, and such tangible personal property is installed by the retailer, the receipts from such installation charges must be included in the gross receipts upon which his Retailers' Occupation Tax liability is measured if such installation charges are included in the selling price of the property being sold. See, 86 Ill. Adm. Code 130.450, enclosed.

If, however, the seller and buyer agree upon the installation charges separately from the selling price of the tangible personal property which is sold, then the receipts from the installation charges are not a part of the "selling price" of the tangible personal property which is sold. Instead such charges constitute a service charge, separately contracted for, which need not be included in the figure upon which the seller computes his Retailers' Occupation Tax liability.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Karl Betz
Associate Counsel

KB:msk
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